



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

**VIA CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

**OCT 20 2016**

**Margaret Ann Mulvihill**

**Silver Spring, MD 20910**

RE: MUR 6914

**Dear Ms. Mulvihill:**

The Federal Election Commission reviewed the allegations in your complaint received on February 10, 2015. On October 3, 2016, based upon the information provided in the complaint, and information provided by the respondents, the Commission decided to exercise its prosecutorial discretion to dismiss the allegations and close its file in this matter. Accordingly, the Commission closed its file in this matter on October 3, 2016.

Documents related to the case will be placed on the public record within 30 days. *See* Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). A copy of the dispositive General Counsel's Report is enclosed for your information.

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. *See* 52 U.S.C. § 30109(a)(8).

Sincerely,

**Lisa J. Stevenson**  
**Acting General Counsel**

BY: Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination and  
Legal Administration

**Enclosure**  
**General Counsel's Report**

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
2016 SEP 15 AM 10: 21

**BEFORE THE FEDERAL ELECTION COMMISSION**

**ENFORCEMENT PRIORITY SYSTEM  
DISMISSAL REPORT**

**MUR: 6914**

**Complaint Receipt Date: February 10, 2015**

**Response Date(s): February 20, 2015  
April 1, 2015**

**Respondents: DeFranco for Congress,  
and Kai P. Moy, as Treasurer  
(collectively the "Committee")<sup>1</sup>**

██████████ ██████████ ██████████ ██████████

**Alleged Statutory/ 52 U.S.C. §§ 30104(a)(1), (b)(8)  
Regulatory Violations: 11 C.F.R. §§ 104.1(a), 104.3(d), 116.10(a)**

10044202000

The Complaint alleges that DeFranco for Congress, the authorized committee of Marisa DeFranco, violated the Federal Election Campaign Act of 1971, as amended ("the Act") and Commission regulations by failing to include in its disclosure reports a debt allegedly still owed to the Complainant for campaign-related expenses. The Complaint included a copy of an agreement for campaign-related services provided by Complainant to the Committee, signed by both parties, but did not specify an amount that was still owed. The Committee responded by claiming that there was no outstanding debt owed to Complainant. Specifically, the Committee stated that on July 15, 2014, it paid Complainant \$1,000 for two months of work<sup>2</sup>, and asserted that on June 24, 2014, Complainant had released the Committee from their agreement. The Committee also stated that on September 30, 2014, Complainant "provided an alleged claim" via e-mail, but that this additional claim was "dealt with" by legal counsel, and that there was no further contact from Complainant until the Committee received notice of the Complaint in this matter.

<sup>1</sup> The Committee filed a Termination Report on January 14, 2016, and has continued to file, submitting a 2016 April Quarterly Report on April 15, 2016, and a 2016 July Quarterly Report on July 4, 2016. The Committee reported \$0 Cash on Hand in its 2015 Year-End Report, 2016 Termination Report, 2016 April Quarterly Report, and 2016 July Quarterly Report.

<sup>2</sup> See DeFranco for Congress 2014 July Quarterly Report, filed July 15, 2014, at 23.

The Act and Commission regulations require political committees to continuously report the amount and nature of outstanding debts until those debts are extinguished. 52 U.S.C.

§ 30104(b)(8), 11 C.F.R. §§ 104.3(d), 104.11(a)-(b). This reporting requirement applies both to "disputed debts," *see* 11 C.F.R. § 116.10(a), and "estimated debts," *see* 11 C.F.R. § 104.11(b).<sup>3</sup>

When there is a "disputed debt," the political committee must report the disputed debt if the creditor has provided "something of value" to the political committee. 11 C.F.R. § 116.10(a). Until the dispute is resolved, the political committee must disclose any amounts paid to the creditor, any amount the political committee admits it owes, and the amount the creditor claims is owed. *Id.* As yet, the Committee has not disclosed any debts, disputed or otherwise, owed to Complainant on its disclosure reports filed with the Commission. If Complainant's September 30, 2014, email to the Committee alleged a specific-dollar amount still owed to the Complainant, the Committee should have reported it as either a debt or disputed debt.

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating and a

<sup>3</sup> Debts or obligations of \$500 or less "shall be reported as of the time payment is made or not later than 60 days after such obligation is incurred, whichever comes first." 11 C.F.R. § 104.11(b). Debts or obligations over \$500 shall be disclosed "as of the date on which the debt or obligation is incurred," with the exception of recurring administrative expenses such as salary or rent, and if the exact amount is not known, the report shall state that the amount disclosed is an estimate. *Id.* "Once the exact amount is determined, the political committee shall amend the report(s) containing the estimate or indicate the correct amount on the report for the reporting period in which such amount is determined." *Id.*

question as to whether the Committee had notice of a specific debt, we recommend that the Commission dismiss the allegations consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources. *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985). We also recommend that the Commission close the file as to all respondents and send the appropriate letters.


General Counsel

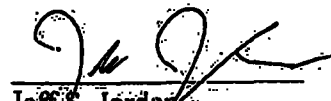
Kathleen M. Guith  
Acting Associate General Counsel  
for Enforcement


9.15.16

Date

BY:

  
Stephen Gura  
Deputy Associate General Counsel  
for Enforcement

  
Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination  
& Legal Administration

  
Donald E. Campbell  
Attorney  
Complaints Examination  
& Legal Administration

16044402261